

**REMARKS****INTRODUCTION:**

Claims 1-5, 19, 20, 22, 23 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over McKenna et al. (USPN 5,059,148) in view of Kurosawa et al. (USPN 6,057,647).

Claims 6-9 and 26-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over McKenna-Kurosawa as applied to claims 1 and 22 above and further in view of Taniguchi et al. (USPN 5,239,229).

Claims 21 and 24 are allowed.

Claims 1 and 22 have been amended.

**REJECTION UNDER 35 U.S.C. §103:**

Claims 1-5, 19, 20, 22, 23, and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McKenna et al. (USPN 5,059,148) in view of Kurosawa et al. (USPN 6,057,647). Claims 6-9 and 26-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McKenna-Kurosawa as applied to claims 1 and 22 above and further in view of Taniguchi et al. (USPN 5,239,229).

Independent claims 1 and 22 have been amended to include "wherein gas fills a space formed by the substrate and the flat panel," as is explained in paragraph 27 of the specification. The through hole of the present invention permits the discharge of gas to control a pressure of the space. Such a discharge of gas is distinguished over the fill hole of McKenna '148, which teaches filling the space with a protective fluid such as silicon oil. Also, in Kurosawa, '647, the filling material is not a gas, but is silicon oil (see col. 15, lines 11-14). In addition, McKenna '148 does not disclose a flat panel, but rather a panel having a cap-like structure (see FIG. 3). Thus, claims 1 and 22 are submitted to be allowable.

With respect to claims 6 and 26, the displays of McKenna '148 and Kurosawa '647 utilize silicon oil as a filling material and do not need a moisture absorbing agent. Moreover, if the display has a moisture absorbing unit, the moisture absorbing agent cannot function properly because of the liquid, such as silicon oil, that fills the space.

The Examiner has admitted that McKenna et al. fails to teach the limitation of the EL element being organic and the "at least one through hole formed in said substrate." Kurosawa

et al. fails to teach that the through hole comprises a first through hole formed in said flat panel and a second through hole formed in said substrate. Taniguchi et al. is related to *an inorganic EL device*, as pointed out in the previous response, in *an organic EL device*, air as well as moisture cause deterioration of the EL device due to hydrogen or oxygen, so that not only a moisture absorber, but also an inert medium, are needed in an organic EL device. Hence, components of the inorganic EL device are different from those of an organic EL device, and it would not have been obvious to one of ordinary skill in the art to modify an inorganic EL device by using organic EL elements.

It is respectfully submitted that the courts have held that the Examiner may not suggest modifying references using the present invention as a template absent a suggestion of the desirability of the modification in the prior art. *In re Fitch*, 23 U.S.P.Q.2d 1780, Fed Cir. 1992. Something in the prior art as a whole must suggest the desirability, and thus, the obviousness, of making the combination. *Alco Standard Corp. v. Tennessee Valley Authority*, 808 F. 2d 1490, 1 U.S.P.Q. 2d 1337 (Fed. Cir. 1986). When a rejection depends on a combination of prior art references, there must be some teaching, suggestion or motivation to combine the references. *In re Geiger*, 815 F.2d 686, 688 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Thus, since there is no teaching or suggestion of combining McKenna with Kurosawa and/or with Taniguchi, it is respectfully submitted that amended claims 1 and 22 are patentable over McKenna and Kurosawa in view of Taniguchi. Claims 2-9, 19-20, 23, and 25-28, which depend from amended claims 1 and 22, respectively, are submitted to be allowable for at least the reasons that amended claims 1 and 22 are submitted to be allowable.

Since there is no teaching or suggestion of combining of the three cited references and the amended respective independent claims are deemed to be non-obvious in view of each of the three cited references alone, claims 6-9 and 26-28 are deemed to be allowable under 35 U.S.C. §103(a) over McKenna-Kurosawa as applied to claims 1 and 22 above and further in view of Taniguchi et al. (USPN 5,239,229).

## CONCLUSION

Claims 1 and 22 have been amended. Claims 1-9 and 19-28 are under consideration. Claims 10-18 are withdrawn.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: February 27, 2004

By: Darleen J. Stockley  
Darleen J. Stockley  
Registration No. 34,257

1201 New York Avenue, N.W., Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501